

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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FILE: B-214519

DATE: February 19, 1965

MATTER OF: Peter J. DeVos and Terence A. Todman -  
Travel Expenses Between Ambassadorial  
Assignments

## DIGEST:

Two ambassadors resigned their positions and returned to Washington, D.C., pending nomination and confirmation for new duty posts. Under existing agency procedures the ambassadors were transferred to Washington after 50 days, even though both were shortly thereafter transferred to their new duty posts. Where the ambassadors claim only temporary duty expenses while in Washington and where the agency did not intend to transfer these two ambassadors to Washington between assignments, we will not object to the agency issuing amended travel orders treating the entire period in Washington as temporary duty.

## ISSUE

The issue in this decision concerns the travel orders of two ambassadors who returned to Washington, D.C., pending nomination and confirmation for new duty posts and who, pursuant to the agency policy then in effect, were transferred to Washington after 50 days. The ambassadors were shortly thereafter transferred to their new duty posts, and the agency questions whether the entire period the ambassadors were assigned to Washington may be treated as temporary duty. We hold that where the agency never intended to transfer these ambassadors to Washington between their assignments, the agency may amend the travel orders and consider the entire period in Washington as temporary duty.

## BACKGROUND

This decision is in response to a request from Lorin A. Jurvis, Associate Comptroller for Budget and Planning, Department of State, concerning the travel claims of Ambassadors Peter J. DeVos and Terence A. Todman.

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Ambassador DeVos resigned as U.S. Ambassador to Guinea-Bissau in March 1983, and he was authorized return travel to Washington, D.C., for consultation pending his nomination as ambassador to another foreign country. He was nominated on July 14, 1983, to be Ambassador to Mozambique, and that nomination was confirmed on September 22, 1983. However, while he was awaiting confirmation, his travel orders were amended on August 22, 1983, effectively transferring Ambassador DeVos from Guinea-Bissau to Washington. After his confirmation, Ambassador DeVos was transferred from Washington to Mozambique, effective October 7, 1983. Ambassador DeVos has not claimed change-of-station allowances in connection with these travel orders but has instead claimed temporary duty expenses while he was in Washington between his appointments to Guinea-Bissau and Mozambique.

Ambassador Todman's situation is similar to Ambassador DeVos' situation. Ambassador Todman resigned as U.S. Ambassador to Spain in July 1983, and he too was authorized return travel to Washington, D.C., for consultation pending his nomination as ambassador to another foreign country. Ambassador Todman was nominated on September 20, 1983, to be Ambassador to Denmark and he was confirmed on September 30, 1983. However, two sets of travel orders were issued effective October 7, 1983, the first authorizing change-of-station travel from Spain to Washington and the second authorizing change-of-station travel from Washington to Denmark. In the same manner as Ambassador DeVos, Ambassador Todman has claimed only temporary duty expenses while in Washington between his assignments.

The agency report states that change-of-station travel orders were issued to Ambassadors DeVos and Todman under Standard Operating Procedures issued in August 1980. These procedures required that "incumbent" Ambassadors may receive up to a 50-day grace period during which they remain on the rolls as Ambassadors while they are in travel status, on leave, or on consultation or temporary duty. If the Ambassador's nomination was not confirmed within the 50-day period, the Ambassador would revert to Foreign Service Officer status on the 51st day and would automatically be assigned to the State Department in Washington, D.C. (change-of-station travel).

This standard operating procedure followed the limitation on ambassadorial salary contained in section 401(b) of the Foreign Service Act of 1980, Public Law 96-465, October 17, 1980 (22 U.S.C. § 3961 (1982)). That section

provides that the salary of a chief of mission commences upon the effective date of appointment and may continue up to 50 days after relinquishment of change of the mission. After 50 days, according to State Department regulations, the officer must revert to Foreign Service Officer status.

The request from the Department of State argues that although Ambassadors DeVos and Todman were assigned to Washington as of the 51st day after relinquishing their prior posts, in accordance with existing agency policy, this did not reflect agency intent since the agency never intended that these Ambassadors would remain in Washington on a permanent assignment. As an indication of agency intent, the request points out that the standard operating procedure was revised in January 1984, to prevent these situations by permitting temporary duty assignments up to 120 days pending confirmation of the ambassador's nomination and by removing the connection between the ambassador's salary continuation (up to 50 days) and the ambassador's temporary duty status.

Since these travel orders were issued contrary to agency intent, the State Department requests our approval to issue amended travel orders permitting Ambassadors DeVos and Todman to remain on temporary duty assignment in Washington until confirmation and departure for the new post.

#### OPINION

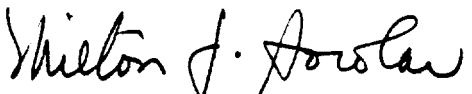
Generally, our decisions have held that travel orders may not be revoked or modified retroactively so as to increase or decrease rights which have been accrued or become fixed under law and regulation. 51 Comp. Gen. 736 (1972); and 48 Comp. Gen. 119 (1968). The only exceptions to that rule are where there is an error apparent on the face of the orders or where all the facts and circumstances clearly demonstrate that some provision previously determined and definitely intended had been omitted through error or inadvertence in preparing the orders. See Vernon E. Adler, B-204210, April 5, 1982; and the decisions cited above.

In the present case we have a clear expression by the agency that Washington was never intended to be a permanent duty station for these two ambassadors who were between appointments to foreign posts. In addition, the ambassadors, through their travel vouchers, indicate that they treated Washington as a temporary duty location where they were engaged in consultations between their appointments.

The designation of Washington as a permanent duty post in the cases of Ambassadors DeVos and Todman was apparently triggered automatically by the standard operating procedure, then in effect, without regard to the ambassador's individual situation. For example, even though Ambassador Todman had been nominated and confirmed for the position of U.S. Ambassador to Denmark, travel orders were issued effective October 7, 1983, reassigning Ambassador Todman from Spain to Washington. A second set of travel orders dated October 7, 1983, transferred Ambassador Todman from Washington to Denmark. Under the circumstances, there would seem to be no necessity for transferring Ambassador Todman twice in order to effect his transfer to his new post in Denmark.

We note that the State Department's standard operating procedure has been subsequently modified to allow additional time for temporary duty or consultations, especially where there are delays in the confirmation process.

Therefore, where it appears that the agency never intended to assign Ambassadors DeVos and Todman to Washington on a permanent basis but where travel orders were issued effecting those transfers, we would not object to the agency issuing amended orders to provide continuing temporary duty in Washington between these assignments. We presume that the State Department will also issue change-of-station orders for Ambassadors DeVos and Todman authorizing their transfers directly between their old and new duty posts.

*for*   
Comptroller General  
of the United States